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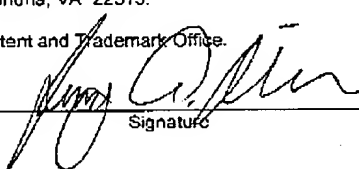
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of:

Inventor(s) : Brian Siegel
Filed : 8/29/2000
Serial No. : 09/650,034
Confirmation No. : 8387
Group Art Unit : 3624
Examiner : Bashore, Alain L.
Docket Number : SNY-P4055.01
Title : Method to Electronically Track Personal Credit Information

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Jerry A. Miller, Reg. No. 30,779 (Applicant, Assignee or Reg. Representative)	 Signature	2/16/07 Date

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APPLICATION FOR PATENT TERM ADJUSTMENT

Sir:

This is an application for adjustment of the term of the patent to issue on the above-referenced application. The fee for this application is being paid separately by credit card payment form, but the Director is authorized to deduct any underpayment for this application for patent term adjustment from deposit account number 501267.

Below is a statement of the facts surrounding this matter. The undersigned regrets that due to the complexity of the situation, it is unclear to the undersigned what the correct patent term adjustment should be. The Office's assistance in determining the correct patent term adjustment is earnestly solicited:

Serial Number 09/650,034

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Applicant, Assignee or Reg. Representative: JERRY A. MILLER Reg. No. 30,779

Signature 

Date

2/16/07

TRANSMITTAL LETTER

Transmitted herewith please find the following:

- ☒ Application for Patent Term Adjustment
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Respectfully submitted,


Jerry A. Miller

Registration No. 30,779

Dated: 2/16/07

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FACT PATTERN

On March 11, 2004 a personal interview was conducted on behalf of the undersigned by a local representative (Michelle Larson). Certain agreements were reached during that interview. Those agreements were documented in the Office Action Response of March 18, 2004 (one week later) as well as an Examiner interview summary form PTOL-413 done the same day. The Examiner's summary does not appear to have been made part of the electronic record until May 3, 2004.

The Examiner Interview summary is dated March 11, 2004.

Applicant's summary of the interview (made with the PTOL-413 in hand) was included in the Office Action response of March 18, 2004 at page 11 – only about one week after the interview.

On May 3, 2004, a restriction requirement was made by the Examiner, such requirement making no mention of the interview or Applicant's interview summary, but which was agreed to at the interview and resulted directly therefrom.

On May 7, 2004, four days later, the response to the restriction was filed.

The Examiner responded with an Office Action on September 27 rejecting the elected claims. In paragraph 3 of this Office Action, the Examiner deemed that the interview summary submitted on March 18, 2004 was not fully responsive because of failure to document the interview in adequate detail.

On October 1, 2004, four days later, Applicants further described the events of the interview in detail. Hence, there are 147 days between the restriction response of May 5, 2004 and the response of Oct. 1, 2004 which apparently corrected the Examiner's allegation of non-responsiveness.

There is a 20 day delay beyond four months between the response to the restriction requirement filed May 7, 2004 and the Office Action of September 27, 2004. Since this period overlaps the 147 days considered Applicant delay, it is presumed that this 20 day delay has been deemed irrelevant to the present calculation by the PTO's software for PTA.

**RECEIVED
CENTRAL FAX CENTER****FEB 16 2007****APPLICANT'S ANALYSIS**

The PTO interview summary is silent as to some of the agreements made during the interview, hence it would appear that Applicant's interview summary that was deemed to be non-responsive is in fact supplemental to the PTO interview summary and makes the record far more clear than the Examiner's interview summary alone. Moreover, it is submitted that the summary on page 11 provided in the Office Action response of March 18, 2004 together with the Examiner's PTOL-413 provide an adequate summary of the interview meeting the Applicant's burden to document the interview, and hence the interview summary is not defective as asserted.

Applicant submits that the correct determination is per one or more of the following scenarios:

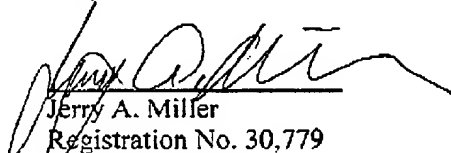
1. An interview summary that supplements an interview summary done by the patent Examiner (and is believed to provide a complete record of the substance of the interview) is not believed to be adequate grounds for a determination that an Office Action response is not fully responsive. If Applicant's summary was inadequate, the rules provide for the Examiner to provide an extendable one month period to provide supplement the summary (See page 2 of the PTOL-413 form). No such notice was ever provided. Hence, it is submitted that the 147 days of delay should be removed.
2. If the adequacy of Applicant's interview summary is deemed to be adequate grounds for determining that a response is not fully responsive, even though the notice of inadequacy was filed months later by the Examiner, it would seem that the adequacy of the summary should have been based upon the date of the Office Action Response containing the original summary for PTA purposes – i.e., March 18, 2004. Hence, it would seem that the calculation of PTA for Applicant delay should have started 45 days earlier (if the undersigned's date math is correct). Under this scenario, this extends Applicant's delay to 147 days + 45 days = 192 days.
3. However, if again the adequacy of Applicant's interview summary is deemed to be adequate grounds for determining that a response is not fully responsive, the Examiner should have brought that to Applicant's attention at a much earlier date – that date being certainly no later than May 3, 2004 at the time the Examiner made the restriction requirement. Had the Examiner done so, it is submitted that the undersigned would have corrected the record in the same amount of time as it took when Applicant was placed on notice that the response was considered partially non-responsive. That time is 4 days (between September 27, 2004 and October 1, 2004). Hence, it is believed that a more equitable adjustment would be from March 18, 2004 until May 3, 2004 plus 4 days which (if the undersigned's date math is correct) amounts to 45 days + 4 days = 49 days.

4. In the event either scenario 1 or 3 is deemed correct, the 20 days of delay beyond four months spanning the May 7, 2004 restriction response and the September 27, 2004 Office Action should come into play and should introduce a 20 day PTO delay.

The undersigned earnestly solicits the Office's assistance in reviewing the present application, which obviously involves a complex scenario, and making a determination as to the proper PTA in the present application.

This application is not subject to a terminal disclaimer.

Respectfully submitted,



Jerry A. Miller
Registration No. 30,779
Dated: 2/16/2007

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